

DAVID M. BERGER (SBN 277526)  
LINDA P. LAM (SBN 301461)  
JEFFREY B. KOSBIE (SBN 305424)  
**GIBBS LAW GROUP LLP**  
1111 Broadway, Suite 2100  
Oakland, California 94607  
Telephone: (510) 350-9700  
Facsimile: (510) 350-9701  
*dmb@classlawgroup.com*  
*lpl@classlawgroup.com*  
*jbk@classlawgroup.com*

RACHELE R. BYRD (190634)  
ALEX J. TRAMONTANO (276666)  
**WOLF HALDENSTEIN ADLER  
FREEMAN & HERZ LLP**  
750 B Street, Suite 1820  
San Diego, CA 92101  
Telephone: (619) 239-4599  
Facsimile: (619) 234-4599  
*byrd@whafh.com*  
*tramontano@whafh.com*

*Proposed Interim Class Counsel*

[Additional counsel on signature page]

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

*In re: Sequoia Benefits and Insurance Data Breach  
Litigation*

Case No. 3:22-cv-08217-WHO  
Consolidated with Case Nos.:  
3:22-cv-08966  
3:22-cv-08978  
3:23-cv-00084  
3:23-cv-00216

This Document Relates To:

All Actions

**MITRA PLAINTIFFS' RESPONSE TO  
COMPETING APPLICATION FOR  
APPOINTMENT OF INTERIM CLASS  
COUNSEL**

DATE: March 15, 2023  
TIME: 2:00 p.m.  
CRTRM: 2, 17th Floor  
JUDGE: Hon. William H. Orrick

1 Plaintiffs Arnab Mitra, Zarina Abardo, Kevin Mindeguia, Erin McGurk, Amy Carter,  
 2 Adam Enger, and Seth Jones (collectively, the “Mitra Plaintiffs”) hereby submit this brief response  
 3 to the competing application of plaintiffs Christopher Cottrell and Carl Alenius (together, the  
 4 “Cottrell Plaintiffs”) for appointment of their counsel as Interim Class Counsel and Liaison to  
 5 Interim Class Counsel. For the reasons provided in the Mitra Plaintiffs’ opening memoranda and  
 6 described further below, the best choice to lead this litigation as interim co-lead counsel is David  
 7 M. Berger of Gibbs Law Group LLP and Rachele R. Byrd of Wolf Haldenstein Adler Freeman &  
 8 Herz LLP, along with an Executive Committee comprised of M. Anderson Berry of Clayco C.  
 9 Arnold, APC and Kaleigh N. Boyd of Tousley Brain Stephens PLLC (together, “Proposed Interim  
 10 Class Counsel”). Their proposed four-member team possesses the substantive experience  
 11 necessary to effectively and efficiently lead this data breach class action against Defendants  
 12 Sequoia Benefits and Insurance Services, LLC and Sequoia One PEO, LLC (together, “Sequoia”).

13 As their biographies make clear, each of the Mitra Plaintiffs’ Proposed Interim Class  
 14 Counsel have the requisite knowledge of the facts and law necessary to successfully handle this  
 15 matter. They also are backed by firms with the financial and human resources necessary to lead  
 16 this litigation. Three out of four of the attorneys are located in California, and they all frequently  
 17 practice in this District. Proposed Interim Class Counsel also filed the first case, all of the  
 18 preliminary motion papers, and represent the majority of the plaintiffs in this consolidated action.  
 19 In addition, several firms that filed cases against Sequoia have indicated their support for Proposed  
 20 Interim Class Counsel’s application. Their names and firm information appear in the signature  
 21 block below.

22 Proposed Interim Class Counsel believe that they are well-positioned to efficiently manage  
 23 this case. The Cottrell Plaintiffs, however, argue that a four attorney leadership structure is  
 24 “bloated” and “oversized” and “will likely create duplication of work product, unnecessary billing,  
 25 and an outrageous lodestar.” Cottrell Plaintiffs Mem. at 7. However, the Cottrell Plaintiffs’  
 26 proposed leadership structure is not materially different than the Mitra Plaintiffs’ proposed  
 27 leadership structure: the Cottrell Plaintiffs propose just one fewer attorney.

Moreover, this litigation will likely involve many discrete issues that can be divided up among the four firms, and it is normal to share responsibility in data breach cases. At the outset of the case, it is impossible to know whether the defendant will want to drive up the costs of litigation by contesting trivial issues or, instead, will work to streamline the case. The difference can be staggering, as Judge Chhabria noted recently when sanctioning Facebook and its law firm. Order Granting in Part Plaintiffs' Motion for Sanctions, *In Re: Facebook, Inc. Consumer Privacy User Profile Litig.*, No. 18-md-02843-VC, at 1 (filed, Feb. 9, 2023) (noting that it is "not uncommon in our court system" for wealthy clients and high-powered law firms to use "delay, misdirection, and frivolous arguments to make litigation unfairly difficult and expensive for their opponents"). The Mitra Plaintiffs' Proposed Interim Class Counsel have the deep bench and financial resources needed to best serve their clients and the proposed class, no matter how large or small the litigation becomes. In any event, Proposed Interim Class Counsel will meet their responsibilities to delegate appropriately and exercise billing judgment in reviewing time records and assignments. While the Mitra Plaintiffs do not believe it is necessary, if the Court thinks it would be helpful, the Mitra Plaintiffs will submit quarterly *in camera* summaries of Plaintiffs' counsel's time and lodestar.

For the foregoing reasons and those given in their opening memorandum, the Mitra Plaintiffs respectfully request that the Court appoint David M. Berger and Rachele R. Byrd as Interim Co-Lead Counsel and M. Anderson Berry and Kaleigh N. Boyd as members of the Executive Committee pursuant to Federal Rule of Civil Procedure 23(g)(3).

DATED: February 10, 2023

**GIBBS LAW GROUP LLP**

By, /s/ David M. Berger

David M. Berger (SBN 277526)  
 Linda P. Lam (SBN 301461)  
 Jeffrey B. Kosbie (SBN 305424)  
 1111 Broadway, Suite 2100  
 Oakland, California 94607  
 Telephone: (510) 350-9700  
 Facsimile: (510) 350-9701  
dmb@classlawgroup.com  
lpl@classlawgroup.com  
jbk@classlawgroup.com

*Counsel for Plaintiffs Arnab Mitra, Zarina*

*Abardo, Kevin Mindeguia, and Erin McGurk*

**WOLF HALDENSTEIN ADLER  
FREEMAN & HERZ LLP**

By, /s/ Rachele R. Byrd

Rachele R. Byrd (190634)  
Alex J. Tramontano (276666)  
750 B Street, Suite 1820  
San Diego, CA 92101  
Telephone: (619) 239-4599  
Facsimile: (619) 234-4599  
*byrd@whafh.com*  
*tramontano@whafh.com*

*Counsel for Plaintiff Amy Carter*

**CLAYEO C. ARNOLD  
A PROFESSIONAL LAW CORP.**

By, /s/ M. Anderson Berry

M. Anderson Berry (262879)  
Gregory Haroutunian (330263)  
865 Howe Avenue  
Sacramento, CA 95825  
Telephone: (916) 239-4778  
Fax: (916) 924-1829  
*aberry@justice4you.com*  
*gharoutunian@justice4you.com*

*Counsel for Plaintiffs Amy Carter and Adam  
Enger*

**TOUSLEY BRAIN STEPHENS PLLC**

By, /s/ Kaleigh N. Boyd

Kaleigh N. Boyd  
1200 Fifth Ave., Ste 1700  
Seattle, WA 98101  
Telephone: (206) 682-5600  
*kboyd@tousley.com*

*Counsel for Plaintiffs Arnab Mitra, Zarina  
Abardo, Kevin Mindeguia, and Erin McGurk*

*Proposed Interim Class Counsel*

1 Nathan D. Prosser (*pro hac vice* forthcoming)  
2 **HELLMUTH & JOHNSON, PLLC**  
3 8050 West 78th Street  
4 Edina MN 55439  
5 Telephone: (952) 941-4005  
6 Fax: (952) 941-2337  
7 *nprosser@hjlawfirm.com*

8 Terence R. Coates (*pro hac vice* forthcoming)  
9 Dylan J. Gould (*pro hac vice* forthcoming)  
10 **MARKOVITS, STOCK & DEMARCO, LLC**  
11 119 East Court Street, Suite 530  
12 Cincinnati, OH 45202  
13 Telephone: (513) 665-0204  
14 Fax: (513) 665-0219  
15 *tcoates@msdlegal.com*  
16 *dgould@msdlegal.com*

17 *Counsel for Plaintiff Adam Enger*

18 Bryan L. Bleichner (220340)  
19 **CHESTNUT CAMBRONNE PA**  
20 100 Washington Avenue South, Suite 1700  
21 Minneapolis, MN 55401  
22 Telephone: (612) 339-7300  
23 *bbleichner@chesnutcambronne.com*

24 *Counsel for Plaintiff Seth Jones*

**PROOF OF SERVICE**

I am employed in the county of Alameda, State of California. I am over the age of 18 and not a party to the within action. My business address is: 1111 Broadway, Suite 2100, Oakland, California 94607.

On February 10, 2023, I served a copy of the document(s) described as:

**1. MITRA PLAINTIFFS' RESPONSE TO COMPETING APPLICATION  
FOR APPOINTMENT OF INTERIM CLASS COUNSEL**

on the following interested party(ies) in this action:

DAVIS WRIGHT TREMAINE LLP

Spencer Persson

865 S. Figueroa St., Suite 2400

Los Angeles, CA 90017

Telephone: (213) 633-8634

Facsimile: (213) 633-6899

Email: spencerpersson@dwt.com

Counsel for Defendants

CHESTNUT CAMBRONNE PA

Bryan L. Bleichner

100 Washington Avenue South, Suite 1700

Minneapolis, MN 55401

Phone: (612) 339-7300

Email: bbleichner@chestnutcambronne.com

Counsel for Plaintiff Jones

Nathan D. Prosser (pro hac vice forthcoming)

HELLMUTH & JOHNSON, PLLC

8050 West 78th Street

Edina MN 55439

Telephone: (952) 941-4005

Fax: (952) 941-2337

nprosser@hjlawfirm.com

Terence R. Coates (pro hac vice forthcoming)

Dylan J. Gould (pro hac vice forthcoming)

MARKOVITS, STOCK & DEMARCO, LLC

119 East Court Street, Suite 530

Cincinnati, OH 45202

1 Telephone: (513) 665-0204  
2 Fax: (513) 665-0219  
3 tcoates@msdlegal.com  
4 dgould@msdlegal.com

5 Counsel for Plaintiff Adam Enger

6 [X] BY EMAIL: by electronically transmitting PDF versions of above listed  
7 documents to the email addresses set forth above on this date.

8 I declare that I am employed in the office of a member of the bar of this court at whose  
9 direction the service was made.

10 Executed on February 10, 2023, at Oakland, California.

11 /s/ Honeyleen Bohol  
12 Honeyleen Bohol  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28